IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 2576 of 2007(F)

AGAINST THE ORDER DATED 23/01/2007 IN EP.71/2000 IN OS.295/1995 of SUB COURT, MUVATTUPUZHA

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PETITIONER:

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1. ROY. P. JOHN, 40 YEARS,
   S/O.JOHN, CHIRACKAKUDIYIL, KAKOOR KARA,
   THIRUMARADY VILLAGE, MUVATTUPUZHA TALUK.

2. BENNY JOHN, AGED 38 YEARS,
   S/O.JOHN, CHIRAKKUDIYIL, KAKOOR KARA,
   THIRUMARADY VILLAGE,
   MUVATTUPUZHA TALUK.

BY ADV. SRI.M.CHATHUKUTTY NAMBIAR
SRI.DILEEP VARGHESE

RESPONDENTS:

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1. M/S. ULLATTIL AGENCIES,
   A PARTNERSHIOP FIRM REP. BY ITS MANAGING
   PARTNESR, ISSAC THOMAS, S/O.ITTACK, AGED 82 YEARS,
   RESIDING AT ULLATTIL HOUSE, NEAR UNION
   CLUB ROAD, KOTTAYAM-7.

2. V.G. MANILAL, VANDANNOOR HOSUE,
   VEDIPURA LANE, COLLECTOLRATE P.O.,
   KOTTAYAM.

3. BENOY GEORGE, AGED 34 YEARS,
   S/O.GEORGE, RESIDING AT KEEZHOOR PUTHENPURAYIL,
   MANNTHOOR KARA, THIRUMARADY VILLAGE,
   MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT.

4. AJITHA MANOHARAN, VELLASSERIL,
MILANTHODAN, MURINJAKAL P.O.

5. S. SHAJI KUMAR, VELLASSERIL,
MULANTHODAN, MURINJAKAL P.O.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 2576 OF 2007

Dated 23rd January 2007

J U D G M E N T

This petition is filed under Article 227 of Constitution of India by a third party to the decree in O.S.295/1995 which is sought to be executed in E.P.71/2000 by first respondent. Case of petitioner is that property sought to be sold belongs to him and he filed a claim petition before executing court through a counsel under Rule 58 of Order XXI of Code of Civil Procedure and his counsel did not intimate him about further progress and on 27/7/2004 he found a sale proclamation affixed in the property proclaiming sale on today and he had already filed a complaint before Bar Council against the counsel and he intends to challenge the order in the claim application passed by executing court and therefore sale is to be stayed.

2. Learned counsel appearing for petitioners was heard.

3. Argument of learned counsel appearing for petitioners is that because of the fault of the

counsel either due to his negligence or collusion with decree holder, petitioners were put in the dark about the fate of claim petition filed before executing court and petitioner intends to challenge the order and as executing court dismissed his application, before getting an opportunity, if the property is to be sold, he will be put to irreparable loss and therefore an order for stay is to be granted.

4. In the circumstance of the case, Sub Judge, Muvattupuzha is directed to adjourn the sale in E.P.71/2000 for 15 days. If the petitioners file an urgent copy application of the order dismissing his claim petition, learned Sub Judge is to issue the same, as expeditiously as possible.

Writ petition is disposed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.